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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,134	05/02/2001	Timothy J. Hoffman	0994.00131	8994

7590 06/16/2005

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EXAMINER
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JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
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1618

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/847,134

Applicant(s)

HOFFMAN ET AL.

Examiner

D. L. Jones

Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 3/17/05 and 6/10/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-13, 15-36 and 38-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-13 and 15-36 is/are allowed.
- 6) ☒ Claim(s) 38, 39 and 46-53 is/are rejected.
- 7) ☒ Claim(s) 40-45 and 54-61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: 10/19/05
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **ACKNOWLEDGMENTS**

1. The Examiner acknowledges receipt of the amendment filed 3/17/05 wherein the specification was amended; claims 1, 2, 14, and 37 were canceled; and claims 3, 15, 38, and 53 were amended.

**Note:** Claims 3-13, 15-36, and 38-61 are pending.

## **RESPONSE TO APPLICANT'S AMENDMENT**

2. The Applicant's arguments/amendment filed 3/17/05 to the rejection of claims 3-13, 15-36, and 38-61 made by the Examiner under 35 USC 103 and/or 112 have been fully considered and deemed persuasive. Therefore, the said rejections are hereby withdrawn.

## **NEW GROUNDS OF REJECTIONS**

### **112 Rejections**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 38, 39, and 46-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 38:** The claim as written is ambiguous because it is unclear what condition the patients are being treated for. Is Applicant treating the subjects for cancer? Please clarify in order that one may readily ascertain what is being claimed.

Claims 39 and 48: The claims as written are ambiguous because there is a question mark before the phrase 'emitting isotopes'. Did Applicant intend to insert a gamma symbol instead?

Claims 46-52: The claims depend on canceled claim 1. Did Applicant intend the claims to depend on claim 3 instead?

Claims 53: The claim as written is ambiguous because it is unclear whether Applicant intended the compounds to have the formula X-Y-B as set forth in all the other independent claims. It is noted that the invention is specifically directed to species encompassed by the formula X-Y-B. Thus, it is respectfully suggested that for consistency throughout the claims and the specification that the limitations of claim 54 be incorporated into claim 53.

## **ALLOWABLE CLAIMS**

5. Claims 3-13 and 15-36 are allowable over the prior art of record for reasons of record in Applicant's response filed 3/17/05.

## **CLAIM OBJECTIONS**


6. Claims 40-45 and 54-61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Note**: The claims are distinguished over the prior art of record for reasons of record in Applicant's response filed 3/17/05.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
D. L. Jones  
Primary Examiner  
Art Unit 1618

June 10, 2005